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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,443	08/18/2003	Joseph R. Amore	P 768	4414

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EXAMINER

ROWAN, KURT C

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 03/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/643,443

Applicant(s)

AMORE, JOSEPH R.

Examiner

Kurt Rowan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Ardern.

The patent to Ardern shows a cast net having a throw line 44 with a flexible cuff 48 as shown in Fig. 2 attached to the end of the throw line opposite the apex. The flexible cuff 48 is adapted to engage the wrist of a user throwing the cast net and to secure the throw line to a user's wrist.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ardern as applied to claim 1 above, and further in view of Knowles et al.

The patent to Knowles shows a fish-handling device with a flexible cuff or band 26 comprising an elastic band comprised of a loop of flexible elastic material. The patent to Ardern shows a fishing net as discussed above. Ardern does not disclose that the cuff or band is elastic. In reference to claims 2-3, it would have been obvious to provide

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Ardern with an elastic band as shown by Knowles since merely one band is being substituted for another and the function is the same. Elastic is well known to increase comfort and it would have been obvious to employ the elastic strap of Ardern in present invention to increase comfort against a users hand. In reference to claims 4-5, Knowles shows a rectangular cross-section in Fig. 2, but it would have been obvious to employ other shapes such as a circular cross-section since the function is the same.

See In re Dailey, 149 USPQ 47. In reference to claims 6-8, Knowles discloses the elastic band is formed from a flexible elastic fabric material in column 5, lines 6-9, which inherently can be considered as cellular. It is not clear if the material can be considered as polymeric ? However, Knowles discloses the use of plastic which is considered as a polymeric material inconjuntion with a non-elastic material. At any rate, it would have been obvious to employ a flexible cellular polymeric material since the selection of a known material is based on its suitability for the intended use. See In re Leshin, 125 USPQ 416. In reference to claims 9-13, Knowles discloses a flexible elastic fabric material, which can be considered as a stretchable textile material. In reference to claims 14-18, Knowles does not disclose that the material has stretch factor of about 50%, but since Knowles discloses an elastic fabric, it appears that the stretch factor would be about 50%. Further, Knowles does not disclose a closed cell material.

However, see the citation to In re Leshin, as stated above. In refernce to claims 19-20, Ardern does not disclose a webbing for the throw line, but Knowles discloses a webbing strap. It would have been obvious to employ a webbing as the throw line since the material used in the throw line would be determined by routine experimentation since no

stated problem is solved. Also, Fig. 2 of the present invention, disclosed as Prior Art, shows a rope as the throw line. The rope can be interpreted as a webbing since a webbing is defined as an interlacing of materials, which the rope is.


Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Antosh, Schwartz, Hahn, and Adams shows the state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Rowan whose telephone number is 703 308-2321. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Kurt Rowan
Primary Examiner
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